

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(El Dorado)

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID ANDREW JARRELL,

Defendant and Appellant.

C086678

(Super. Ct. No. P16CRF0257)

Appointed counsel for defendant David Andrew Jarrell asked this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Based on our review of the record, we will modify the judgment regarding certain mandatory fines and fees. Finding no other

arguable error that would result in a disposition more favorable to defendant, we will affirm the judgment as modified.

I

According to the probation report, in 2016 defendant robbed a Chase Bank in El Dorado Hills, a Wells Fargo Bank in El Dorado Hills, a U.S. Bank in Folsom, a U.S. Bank in Rocklin, and a U.S. Bank in El Dorado Hills. He also attempted to rob a Wells Fargo Bank in Cameron Park.

Defendant pleaded guilty to seven counts of second degree robbery (Pen. Code § 211¹ -- Counts one, three, four, five, six, seven and eight) and one count of attempted second degree robbery (§§ 664/211 -- Count two). He requested probation based on his difficult childhood and lack of a prior record, and the probation department recommended five years of probation with one year in jail. But the People argued defendant was presumptively ineligible for probation because, among other things, he had threatened to shoot during one of the offenses. The People requested the maximum sentence of 11 years 6 months.

The trial court denied probation and sentenced defendant to seven years eight months in prison. It awarded him 760 days of presentence credit (661 actual and 99 conduct). The trial court ordered defendant to pay \$10,032 in victim restitution to the various banks, plus \$130.50 to one of the bank tellers. It also ordered defendant to pay a restitution fine of \$1,800 (§ 1202.4, subd. (b)), a parole revocation fine of \$1,800 (§ 1202.45, subd. (b)), \$109.50 for the cost of the probation report (§ 1203.1b), eight \$40 court operations assessments (§ 1465.8, subd. (a)(1)), and eight \$30 assessments pursuant to Government Code section 68085.4, subdivision (c)(2). Defendant did not request a certificate of probable cause.

¹ Undesignated statutory references are to the Penal Code.

In May 2018, the trial court denied defendant's motion to recall his sentence under section 1170, subdivision (d).

II

Appointed counsel filed an opening brief setting forth the facts of the case and asking this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Based on our review of the record, we will modify the judgment so that it reflects the correct mandatory fines and fees. (*People v. Smith* (2001) 24 Cal.4th 849, 853-854 [the court of appeal may correct errors associated with mandatory fines without the need to remand for further proceedings].) The eight \$40 court operations assessments should total \$320, not \$3,620. In addition, the trial court should have imposed eight \$30 assessments pursuant to Government Code section 70373, subdivision (a)(1), not eight \$300 assessments pursuant to Government Code section 68085.4, subdivision (c)(2). Moreover, imposition of the parole revocation fine should have been suspended, not stayed. We note that these modifications are already reflected in the abstracts of judgment.

Having undertaken an examination of the entire record, we find no other arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is modified to reflect the imposition of eight \$40 court operations assessments totaling \$320 pursuant to section 1465.8, subdivision (a)(1), the imposition of eight \$30 assessments totaling \$240 pursuant to Government Code section 70373, subdivision (a)(1), and the imposition of an \$1,800 parole revocation fine, suspended, pursuant to section 1202.45, subdivision (b). The judgment is affirmed as modified.

/S/
MAURO, Acting P. J.

We concur:

/S/
MURRAY, J.

/S/
KRAUSE, J.